

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

KINDRELL M. SANDERS,
Plaintiff,

v.

DOLLAR TREE STORES, INC.,
DOLLAR TREE, INC. and
CHALEK COMPANY, LLC,
Defendants.

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CASE NO. 7:21-CV-234
JURY TRIAL DEMANDED

DEFENDANT DOLLAR TREE STORES, INC.'S
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant, DOLLAR TREE STORES, INC. (hereinafter "DOLLAR TREE") hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Dollar Tree sets forth the following "short and plain statement of the grounds for removal."

I.
THE REMOVED CASE

1. The removed case is a civil action filed with the 358th Judicial District Court, of Ector County, Texas, on November 4, 2021, styled *Kindrell M. Sanders v. Dollar Tree Stores, Inc., Dollar Tree, Inc., and Chalek Company, LLC* under Cause No. D-21-11-1258-CV (the "State Court Action").

II.
DOCUMENTS FROM REMOVED ACTION

2. Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 81 and 28 U.S.C. § 1446(a), Defendant attaches the following documents to this Notice of Removal:

- (a) A list of all parties in the case, their party type and current status;
- (b) a civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counter-claims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);
- (c) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her;
- (d) A record of which parties have requested trial by jury; and
- (e) The name and address of the court from which the case is being removed.

III. REMOVAL PROCEDURE

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the United States District Courts for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Midland/Odessa Division of the Western District Court of Texas is the United States district and division embracing Ector County, Texas, and the county in which the State Court Action is pending.

4. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and orders in the State Court Action as of the date of this pleading are attached hereto as ***Exhibit "B"*** and incorporated herein for all purposes.

5. Defendant will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the Clerk of the 3528th District Court, Ector County, Texas, where the action is currently pending.

IV.
REMOVAL IS TIMELY

6. According to the State Court Action file, Defendant DOLLAR TREE STORES, INC. was served with a copy of Plaintiff's Original Petition ("Petition") on November 8, 2021 by serving the Texas Secretary of State and its registered agent for service of process.¹

7. Additionally, according to the State Court Action file, Defendant CHALEK COMPANY, LLC ("CHALEK") was served with a copy of the Petition on November 8, 2021 by serving its registered agent for service of process.

8. Since the thirtieth day after service of the Petition on DOLLAR TREE falls on December 8, 2021, this Notice of Removal is being filed within the time limits specified in 28 U.S.C. § 1446(b).

9. Defendant Chalek consents to the removal of the State Court Action to this Court.

¹ Defendant Dollar Tree, Inc. is a non-existent entity, is incorrectly named and an improper party to this lawsuit. However, this entity was served with the Petition via the Texas Secretary of State on November 8, 2021.

V.
VENUE IS PROPER

10. The United States District Court for the Western District of Texas – Midland/Odessa Division, is the proper venue for removal of the State Court Action pursuant to 28 U.S.C. § 1441(a) because the 358th District Court, Ector County, Texas, is located within the jurisdiction of the United States District Court for the Western District of Texas – Midland/Odessa Division.

VI.
DIVERSITY OF CITIZENSHIP EXISTS

11. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

12. As admitted in the Petition, Plaintiff is a resident of Texas and is domiciled there.² As such, Plaintiff is a citizen of Texas.

13. DOLLAR TREE is a foreign corporation organized and existing under the laws of the Commonwealth of Virginia.

14. CHALEK is a foreign Limited Liability Company organized and existing under the laws of the State of California. The Limited Liability Company is comprised of one Managing Member, Cheryl E. Chalek, who is domiciled in and a reside and citizen of the State of California; and three Members, Jody R. Chalek, who is domiciled in and a reside and citizen of the State of California; Michele B. Schwemmer, who is domiciled in and a reside and citizen of the State of California;

² *Id.* Plaintiff's Original Petition at p. 1, ¶ 2.1

and Marvin M. Chalek, who is domiciled in and a reside and citizen of the State of California. CHALEK's principal office address is 5845 Abernathy Drive, Los Angeles, California 90045.

15. Because Plaintiff is a citizen of the State of Texas and Defendants DOLLAR TREE and CHALEK are not, complete diversity of citizenship exists among the parties pursuant to 28 U.S.C. § 1332.

VII.
THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

16. Plaintiff alleges in her Petition that she seeks "only monetary relief over \$1,000,000.00."³

17. Based on the aforementioned facts, the State Court Action may be removed to this Court by DOLLAR TREE in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this is a civil action pending within the jurisdiction of the United States District Court for the Western District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy as pled by the Plaintiff, exceeds \$75,000, exclusive of interest and costs.

VIII.
FILING OF REMOVAL PAPERS

18. Pursuant to 28 U.S.C. § 1446(d), DOLLAR TREE is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the 358th District Court, Ector County, Texas, in which this action was originally commenced.

³ See, Petition at p. 1, ¶ 1.1

IX.
CONCLUSION

19. Defendant DOLLAR TREE STORES, INC. hereby removes the above-captioned action from the 358th District Court, Ector County, Texas, and requests that further proceedings be conducted in the United States District Court for the Western District of Texas – Midland/Odessa Division, as provided by law.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
DOLLAR TREE STORES, INC.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on December 8, 2021, the foregoing *Notice of Removal* was electronically filed, as required by the United States District Court for the Western District of Texas, using the Court's CM/ECF filing system, which will provide notice and a copy of this document, with attachments, to the following, who are indicated to be registered ECF filers in the United States District Court for the Western District of Texas:

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/s/ Zach T. Mayer

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